

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA)
)
 v.) Crim. No. 04-10219-JLT
)
EMMANUEL LEE)

REQUEST TO RE-WEIGH DRUGS

Now Comes defendant Emmanuel Lee, who respectfully moves this Court to permit defendant to weigh the drugs allegedly seized from the defendant in this matter. In support of this request, defendant states the following:

1. The government seized a bag from the defendant while he was passing through customs at Logan Airport.

2. After an examination, a container of cocaine was retrieved from a hidden compartment in that bag.

3. The government weighed the drugs on June 27, 2004 and found that the bag contained 501.4 grams.

4. Given that the weight within 1.5 grams of the amount that triggers the five year minimum mandatory provisions pursuant to 21 U.S.C. § 960(b)(2)(B)(ii), defendant is seeking to re-weigh the drugs to ensure accuracy in the weight pursuant to the Due Process Clause of the Fifth Amendment to the United States Constitution.

5. The U.S. Attorney's Office does not object to this request.

Wherefore, defendant moves this Court to grant his motion to re-weigh the drugs seized from the defendant in the instant case. Defendant also moves this Court to permit a defense expert to

weigh the drugs. If this is authorized then defendant will file a motion for funds under separate cover. Alternatively, defendant seeks an order requiring the government to re-weigh the drugs in advance of sentencing.

Submitted By
Emanuel Lee's Attorney

James Budreau /S/
James Budreau, Bar# 559931
20 Park Plaza Suite 905
Boston, MA 02116
(617)227-3700

AFFIDAVIT OF COUNSEL

I, James Budreau, do state that the following is true to the best of my knowledge:

1. I was appointed as counsel for Emanuel Lee in the above referenced case.

2. I have spoken to AUSA Glen Mackinlay and he assents to the re-weighing of the drugs.

Signed under pains and penalties of perjury,

James Budreau /S/
JAMES BUDREAU